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|--|-------------|----------------------|---------------------------|------------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
| 09/966,538   | 09/26/2001  | Guy Riddle           | 6533/53640                | 4598                   |
| 30505 7590 06/18/2007<br>LAW OFFICE OF MARK J. SPOLYAR<br>2200 CESAR CHAVEZ STREET<br>SUITE 8<br>SAN FRANCISCO, CA 94124 |             |                      | EXAMINER<br>WU, QING YUAN |                        |
|  |             |                      | ART UNIT<br>2194          | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>06/18/2007   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **INFORMATION REQUIREMENT**

### ***Requirement For Information - 37 C.F.R. § 1.105***

**I. Applicant and Assignee of this application are required under 37 C.F.R. 1.105 to provide the following that the Examiner has determined is reasonably necessary to the examination of this application.**

This request is made in view of the prosecution history with arguments made by Applicant and will assist in determining whether certain references and/or commercial products constitute prior art against specific claims.

To make the record clear the examiner is requiring specific information that may be used to delineate the invention and the commercially available products in the PacketShaper series of products. Documentations of PacketWise software for PacketShaper prior to September, 2001 are of particular interest. Examiner has provided a listing of PacketWise software for PacketShaper version histories as support for knowing of the prior products with the accompanying PTO 892. These related information, products and documents, written by the inventor or an employee of the assignee, and which were not submitted, were uncovered during the search or described in the application file. As the breath and scope of the claims pending apparently encompasses the earlier versions dating back prior to April, 1997 it is proper to require disclosure of the following. see M.P.E.P. 704.11 sections relating to requirements, and 37 C.F.R. 1.105(a)(i)-(viii).

**In response to this requirement, please provide:**

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1. The publication date or date of sale of supportive documentary evidence, such as manuals, articles and/or program code by applicant, or assignee, that may qualify as printed publication prior art or on sale bar (35 U.S.C. 102(a) or (b)) specific to the PacketWise software for PacketShaper, that were available prior to September, 2001.

2. The trade name of any goods or services the *claimed* subject matter is embodied in.

3. The citation for, the dates *initially* published and copies of any advertising and promotional literature prepared for any goods or services the *claimed* subject matter has been embodied in.

4. The citation for and copies of any journal articles describing any goods or services the *claimed* subject matter has been embodied in.

5. The claimed invention appears to be an improvement over at least some of Applicant or Assignee's commercial products, identification of what is being improved must be provided in the response so as to delineate the *claimed* invention from these products.

6. Copies or originals of manuals covering PacketWise software for PacketShaper versions 1-5.1.1.

7. Any written descriptions or analyses, prepared by any of the inventors or assignees, of goods or services in competition with the goods or services the claimed subject matter has been embodied in, regardless of dates.

8. An explanation of technical material in a publication, such as one of the inventor's publications.

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9. Art related to applicant's invention, applicant's disclosure, or the claimed subject matter.

10. Other factual information pertinent to patentability.

11. Prior art used in drafting the instant claimed invention.

This request is made in view of the prosecution history with arguments made by Applicant with prior art provided and will assist in determining whether uncovered references and commercially available products might constitute prior art against specific claims pending in the application.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 C.F.R. 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

The fee and certification requirements of 37 C.F.R. 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 C.F.R. 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 C.F.R. 1.105 are subject to the fee and certification requirements of 37 C.F.R. 1.97.

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This requirement is subject to the provisions of 37 C.F.R. 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 C.F.R. 1.136(a).

### **Correspondence Information**

**II.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

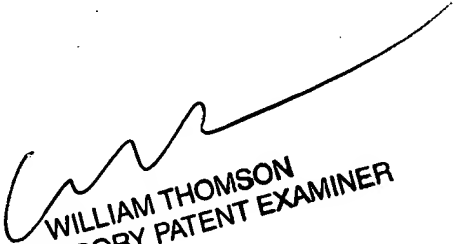
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qing-Yuan Wu

Art Unit 2194

Patent Examiner

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER